

CHILD SUPPORT GUIDELINE REVIEW COMMITTEE

Agenda Item Cover Sheet

**Date Action
Requested:**

June 4, 2010

**Type of Action
Requested:**

- ☒ Formal Action/Request
☐ Information Only
☐ Other

Subject:

*Section II(J)
Adjustments to Support*

SUBMISSIONS FROM:

- *Hon. Bruce R. Cohen – Chair of GRC*
Percent of Income Applied to Support Adjustments
- *Professor Ira Ellman – GRC member*
Calculating Parental Shares of Support Adjustments

DISCUSSION:

Separate memos submitted for GRC review to address adjustments to support such as childcare, medical insurance, and education expenses.

RECOMMENDED ACTION:

GRC members to review, discuss, possibly draft additional guideline language, and vote if necessary.

Percentage of Income Applied to Support Adjustments

Current language in latest draft of proposed Guidelines:

J. ADJUSTMENTS TO SUPPORT

The following child-related expenses are generally shared by the parents in proportion to each parent's adjusted gross income. Each parent's proportionate share is determined by dividing that parent's adjusted gross income by the combined adjusted gross income of the parents.

Premises:

- The Guidelines allocate costs for childcare, medical insurance, educational expenses, etc in proportion to the gross incomes found for each party.
- This purports to be fair since the costs for which there are adjustments are not part of the basic support amount and there is good cause to employ proportionate responsibility.

Issue:

- The issue relates to what figures are used for determining the proportionate responsibility. We know that when there is redistribution of income for spousal maintenance, it alters the percentages. Is there any rationale for not doing the same when basic child support moves from one home to the other? Is this principal even more applicable when dealing with child support versus spousal maintenance (since spousal maintenance at least has the tax deductibility component which child support does not)?

Legal Authority

- This concept is not controlled by any state or federal law. It is a guideline principle that has been in place for years.

Solutions?

- Leave language as currently set forth in the latest draft of guidelines.
- Revise the method so that after the basic support amount is determined, the income proportions would be re-calculated as well BEFORE the proportionate share of the adjustments (childcare, medical insurance, etc) are determined.

Calculating Parental Shares of Support Adjustments

1. Why do we currently allocate child care costs as we do?
 - a. The support numbers in a MEG table of basic support obligations, such as Arizona has previously employed, are conceptualized as estimates of parental expenditures on children, as a proxy for the “costs” of children in families of different income levels. (Put aside problems with how such estimates are arrived at; we are concerned here with the theory the current system employs to explain what it is doing.)
 - b. The income shares system then allocates these estimated costs, contained in the table of basic support obligations, between the parents in proportion to their incomes.
 - c. The expenditure or cost estimates reflected in this basic table are derived through a method that intentionally excludes parental expenditures on health care and child care, on the grounds that those expenditures vary so much between families that it would be inappropriate to apply the average expenditure to all families.
 - d. Expenditures on health care and child care are therefore added on in a separate calculation at the end, on a case by case basis.
 - e. However, this separate calculation allocates these costs between the parents in proportion to their incomes, to be consistent with the approach used to allocate all the other costs that are “included” in the table of basic support obligations.
2. Does the explanation for the current practice apply equally to a COBS guideline? *No.*
 - a. The support amounts in the COBS table of basic obligations are not estimates of expenditures in intact families, and are not amounts that are later divided between the parents in proportion to their incomes. They are instead initial estimates of the total support payment the obligor must make to provide the child a living standard that is reasonable in light of the two parents’ incomes, considering the factors the Arizona statutes require be considered in fashioning the guidelines.
 - b. Massachusetts, the state whose guidelines are the most similar to COBS, provides no add-on for child care expenses. Massachusetts does add on health care expenses in a separate calculation at the end, and such a separate estimate of health care costs may be required by federal law, although federal law does not require any particular method for allocating health care expenses between the parents.

3. What allocation method does make sense in a COBS guideline?
 - a. If both child care costs and health care costs are to be added on at the end in a separate calculation, the goal should be to maintain the same relationship between the living standards in the two post-separation households that was achieved under the initial COBS calculation that did not consider child care or health care costs.
 - b. The simplest way to approximate this result is to divide these additional costs between the parents in proportion to the incomes they each will have *after* payment of the COBS support amount.
4. Proposal: Revise the guidelines to so that Section II(J) reads as follows:

ADJUSTMENTS TO SUPPORT

The following child-related expenses are generally shared by the parents in proportion to the parents' incomes. For the purpose of this calculation, the adjusted gross income of each parent is adjusted to reflect the preliminary support amount. Thus, the preliminary obligor's adjusted gross income is reduced by the preliminary support amount, and the preliminary obligee's adjusted gross income is increased by the preliminary support amount. Dividing a parent's income, so calculated, by the two parents' combined adjusted gross income, yields that parent's proportion of these child-related expenses.